

PATENT COOPERATION TREATY

From the INTERNATIONAL BUREAU

PCTNOTIFICATION CONCERNING
TRANSMITTAL OF COPY OF INTERNATIONAL
PRELIMINARY REPORT ON PATENTABILITY
(CHAPTER I OF THE PATENT COOPERATION
TREATY)

(PCT Rule 44bis.1(c))

To:

LICATA, Jane, Massey
Licata & Tyrrell P.C.
66 E. Main Street
Marlton, NJ 08053
ETATS-UNIS D'AMERIQUE

Date of mailing (day/month/year)

27 October 2005 (27.10.2005)

Applicant's or agent's file reference

DEX-0477

IMPORTANT NOTICE

International application No.

PCT/US2004/011104

International filing date (day/month/year)

12 April 2004 (12.04.2004)

Priority date (day/month/year)

11 April 2003 (11.04.2003)

Applicant

DIADEXUS, INC. et al

The International Bureau transmits herewith a copy of the international preliminary report on patentability (Chapter I of the Patent Cooperation Treaty)

The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Authorized officer

Beate Giffo-Schmitt

Facsimile No.+41 22 740 14 35

Facsimile No.+41 22 338 87 20

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference DEX-0477	FOR FURTHER ACTION	See item 4 below
International application No. PCT/US2004/011104	International filing date (<i>day/month/year</i>) 12 April 2004 (12.04.2004)	Priority date (<i>day/month/year</i>) 11 April 2003 (11.04.2003)
International Patent Classification (IPC) or national classification and IPC ⁷ C12N 15/11		
Applicant DIADEXUS, INC.		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).
2. This REPORT consists of a total of 5 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.
3. This report contains indications relating to the following items:

<input checked="" type="checkbox"/> Box No. I	Basis of the report
<input type="checkbox"/> Box No. II	Priority
<input type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input checked="" type="checkbox"/> Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/> Box No. VI	Certain documents cited
<input type="checkbox"/> Box No. VII	Certain defects in the international application
<input type="checkbox"/> Box No. VIII	Certain observations on the international application
4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 740 14 35	Date of issuance of this report 14 October 2005 (14.10.2005) Authorized officer <div style="text-align: center; font-weight: bold;">Beate Giffo-Schmitt</div> Telephone No. +41 22 338 87 20
---	---

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

REC'D 27 JUN 2005

PCT WIPO PCT

To:
JANE MASSEY LICATA
LICATA & TYRRELL P.C.
66 E. MAIN STREET
MARLTON, NJ 08053

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Applicant's or agent's file reference DEX-0477		Date of mailing (day/month/year) 22 JUN 2005
		FOR FURTHER ACTION See paragraph 2 below
International application No. PCT/US04/11104	International filing date (day/month/year) 12 April 2004 (12.04.2004)	Priority date (day/month/year) 11 April 2003 (11.04.2003)
International Patent Classification (IPC) or both national classification and IPC IPC(7): C12N 15/11 and US Cl.: 536/23.1		
Applicant DIADEXUS, INC.		

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer Shubo (Joe) Zhou <i>F. Roberts for</i> Telephone No. (571) 272-1600
--	--

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US04/11104

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☒ a sequence listing

☐ table(s) related to the sequence listing

b. format of material

☒ in written format

☒ in computer readable form

c. time of filing/furnishing

☒ contained in international application as filed.

☒ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority for the purposes of search.

3. ☒ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US04/11104

Box No. IV Lack of unity of invention

1. ☒ In response to the invitation (Form PCT/ISA/206) to pay additional fees the applicant has:
- ☐ paid additional fees
- ☐ paid additional fees under protest
- ☒ not paid additional fees
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is
- ☐ complied with
- ☒ not complied with for the following reasons:
- See the lack of unity section of the International Search Report(Form PCT/ISA/210)

4. Consequently, this opinion has been established in respect of the following parts of the international application:
- ☐ all parts.
- ☒ the parts relating to claims Nos. 1-10 and 15-17 (as to SEQ ID NO:1)

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US04/11104

Box No. V Reasoned statement under Rule 43 *bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)

Claims NONE YES
Claims 1-10 and 15-17 NO

Inventive step (IS)

Claims NONE YES
Claims 1-10 and 15-17 NO

Industrial applicability (IA)

Claims 1-10 and 15-17 YES
Claims NONE NO

2. Citations and explanations:

Claims 1-10 and 15-17 lack novelty under PCT Article 33(2) as being anticipated by MANDA et al. (Database GenBank Accession NO: AB 027466). MANDA et al. disclose a nucleic acid with a sequence having 100% identity to SEQ ID NO :1.

Claims 1-10 and 15-17 meet the criteria set out in PCT Article 33(4) because the claimed nucleic acids are useful in diagnosing cancer.